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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/866,478	05/29/2001	Kunihiro Tabuchi	P107390-00005	4389

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EXAMINER

HAWKINS, CHERYL N

ART UNIT PAPER NUMBER

1734

DATE MAILED: 01/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/866,478

Applicant(s)

TABUCHI, KUNIHIRO

Examiner

Cheryl N Hawkins

Art Unit

1734

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 December 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 7 and 8.

Claim(s) objected to: _____.

Claim(s) rejected: 3-6.

Claim(s) withdrawn from consideration: 1,2 and 9-11.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
10. ☒ Other: See Continuation Sheet


CHRIS FIORILLA
SUPERVISORY PATENT EXAMINER

Cheryl N. Hawkins
January 3, 2005

Continuation of 2. NOTE: Claim 3, as presented in the proposed amendment, includes limitations from previously presented Claims 3, 4, and 5. The combination of those claim limitations as presented in proposed Claim 3 was not previously considered and would require further consideration and/or search. In light of the refusal of entry of the proposed amendment, the arguments pertaining to the proposed claims have not been considered.

Continuation of 10. Other: In response to the applicant's arguments that the new rejection of Claim 6 was not necessitated by the applicant's amendment and that finality of the rejection should be withdrawn, the examiner notes that the body of the rejection for Claim 6 in the office actions dated March 31, 2004 and September 21, 2004 were identical, but the listing of the Otruba reference was omitted from rejection heading for Claim 6. Therefore, the rejection heading for Claim 6 in the office action dated September 21, 2004 was modified to remedy that minor deficiency. Since the body of the rejection for Claim 6 was not modified, it doesn't appear that withdrawal of the finality of the rejection is necessary.